

**Exhibit 5**

**Hobby Lobby's First Offer on September 12, 2023**

**LeHane Robert L.**

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**From:** Malone, Robert K. <RMalone@gibbonslaw.com>  
**Sent:** Tuesday, September 12, 2023 5:59 PM  
**To:** LeHane Robert L.  
**Subject:** FW: Bed Bath & Beyond: Hobby Lobby TIME SENSITIVE  
**Attachments:** SKM\_C650i13091217290.pdf

**Importance:** High

**CAUTION: This message originated outside of Kelley Drye and was sent by: [rmalone@gibbonslaw.com](mailto:rmalone@gibbonslaw.com)**

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Bob,

Please see the attached letter. Should you have any comments, please do not hesitate to contact me.

Best regards,

Bob

**ROBERT K. MALONE** | Director  
Chair, Financial Restructuring & Creditors' Rights Group  
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**From:** Malone, Robert K.  
**Sent:** Tuesday, September 12, 2023 5:56 PM  
**To:** emily.geier@kirkland.com; ross.fiedler@kirkland.com; Bauer, Morris S. <MSBauer@duanemorris.com>; dhillman@proskauer.com; Michael D. Sirota - Cole Schotz P.C. (msirota@coleschotz.com) <msirota@coleschotz.com>; wusatine@coleschotz.com; Bradford J. Sandler <bsandler@pszjlaw.com>; Paul J. Labov (plabov@pszjlaw.com) <plabov@pszjlaw.com>  
**Subject:** Bed Bath & Beyond: Hobby Lobby TIME SENSITIVE

Counsel:

Please see the attached correspondence on behalf of our client, Hobby Lobby Stores, Inc.

Regards,

**ROBERT K. MALONE** | Director  
Chair, Financial Restructuring & Creditors' Rights Group

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Robert K. Malone  
Director

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September 12, 2023

**VIA ELECTRONIC MAIL**

Ross J. Fiedler, Esq.  
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Kirkland & Ellis, LLP  
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New York, New York 10022

Michael D. Sirota, Esq.  
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Cole Schotz, P.C.  
Court Plaza North  
23 Main Street  
Hackensack, New Jersey 07601

Re: Bed Bath & Beyond, Inc., et al.; Case No. 23-13359 (VFP)  
Leasehold – Pinnacle Promenade Shopping Center

Dear Counsel:

Please be advised that this Firm represents Hobby Lobby Stores, Inc. ("Hobby Lobby"), a party in interest and currently a tenant in the Pinnacle Promenade Shopping Center located at 2203 Promenade Boulevard, Rogers, Arkansas (the "Pinnacle Property").

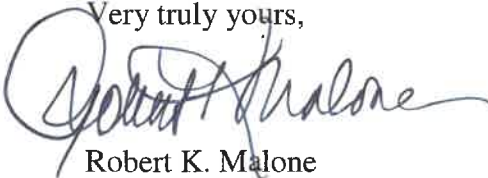
It is our understanding that the current bid for the leasehold space at the Pinnacle Property previously occupied by your client, Bed Bath & Beyond, the debtor and debtor-in-possession herein ("BBBY" or the "Debtors") (the "BBBY Lease") is for \$850,000 by Michael's. As you are aware, Hobby Lobby and Michael's are both retailers specializing in the sale of arts and crafts. At the sale hearing held on August 30, 2023, before the Honorable Vincent F. Papalia to approve the bid by Michael's, Brookfield Properties ("Brookfield") interposed two (2) objections as to the assumption and assignment of the BBBY Lease to Michael's: (a) that it violates section 365(b)(3)(C) of the Bankruptcy Code as to the exclusive provisions set forth in the landlord's lease, and (b) it disrupts the tenant mix at the Pinnacle property in violation of section 365(b)(3)(D) of the Bankruptcy Code.

Ross J. Fiedler, Esq.  
Emily E. Geier, Esq.  
Michael D. Sirota, Esq.  
Warren A. Usatine, Esq.  
September 12, 2023  
Page 2

Although the Court issued its opinion at the conclusion of the August 30, 2023 hearing, to date, no order has been entered by the Court that would constitute a Final Order subject to appeal. While Hobby Lobby agrees with the aforementioned objections and positions taken by Brookfield, the purpose of this letter is to present an offer by Hobby Lobby that is not only a “higher and better offer”, but one that does not violate the aforementioned sections of the Bankruptcy Code governing shopping center leases.

Please be advised that this letter shall constitute an offer by Hobby Lobby for the assumption and assignment of the Bed Bath & Beyond Lease for the total sum of \$1,350,000, which is an all cash offer with no contingencies. Hobby Lobby believes that its offer not only provides a resolution of issues that will certainly be the subject of an appeal by Brookfield, but provides a superior financial recovery to the Debtors’ estate and its creditors. If this offer is acceptable to the Debtors, Hobby Lobby is prepared to provide the requisite deposit and is prepared to close on the transaction following approval of its offer as the “highest and best offer” by the United States Bankruptcy Court. Accordingly, it is hereby requested that the Debtors exercise its right to a “fiduciary out” to consider a significantly higher and better offer and notify the Bankruptcy Court of this recent development so that the sale hearing and auction can be reopened to consider the Hobby Lobby offer.

Should you have any questions regarding the foregoing or require any additional information, please do not hesitate to contact me.

Very truly yours,  
  
Robert K. Malone  
Director

ggb

cc: Bradford Sandler, Esq.  
Paul Labov, Esq.  
Morris S. Bauer, Esq.  
David Hillman, Esq.